

## § 1952.90

(1) *Coverage.* The program must cover all public employees over which the State has legislative authority under its constitution. "To the extent permitted by its law," specifically recognizes the situation where local governments exclusively control their own employees, such as under certain "home rule" charters.

(2) *Standards.* The program must be as effective as the standards contained in the approved plan applicable to private employers. Thus, the same criteria and indices of standards effectiveness contained in §§1902.3(c) and 1902.4 (a) and (b) of this chapter would apply to the public employee program. Where hazards are unique to public employment, all appropriate indices of effectiveness, such as those dealing with temporary emergency standards, development of standards, employee information, variances, and protective equipment, would be applicable to standards for such hazards.

(3) *Enforcement.* Although section 18(c)(6) of the Act requires State public employee programs to be "as effective as standards" contained in the State plan, minimum enforcement elements are required to ensure an "effective and comprehensive" public employee program as follows: (See notice of approval of the North Carolina Plan, 38 FR 3041).

(i) Regular inspections of workplaces, including inspections in response to valid employee complaints;

(ii) A means for employees to bring possible violations to the attention of inspectors;

(iii) Notification to employees, or their representatives, of decisions that no violations are found as a result of complaints by such employees or their representatives, and informal review of such decisions;

(iv) A means of informing employees of their protections and obligations under the Act;

(v) Protection for employees against discharge of discrimination because of the exercise of rights under the Act;

(vi) Employee access to information on their exposure to toxic materials or harmful physical agents and prompt notification to employees when they have been or are being exposed to such materials or agents at concentrations

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or levels above those specified by the applicable standards;

(vii) Procedures for the prompt restraint or elimination of imminent danger situations;

(viii) A means of promptly notifying employers and employees when an alleged violation has occurred, including the proposed abatement requirements;

(ix) A means of establishing timetables for the correction of violations;

(x) A program for encouraging voluntary compliance; and

(xi) Such other additional enforcement provisions under State law as may have been included in the State plan.

(c) In accordance with §1902.3(b)(3), the State agency or agencies designated to administer the plan throughout the State must retain overall responsibility for the entire plan. Political subdivisions may have the responsibility and authority for the development and enforcement of standards: *Provided*, That the designated State agency or agencies have adequate authority by statute, regulation, or agreement to insure that the commitments of the State under the plan will be fulfilled.

These commitments supersede and control any delegation of authority to State or local agencies. (See Notice of Approval of Colorado Plan, 38 FR 25172.)

[40 FR 58451, Dec. 17, 1975]

### Subpart B [Reserved]

### Subpart C—South Carolina

SOURCE: 51 FR 8820, Mar. 14, 1986, unless otherwise noted.

#### § 1952.90 Description of the plan as initially approved.

(a) The plan identifies the South Carolina Department of Labor as the State agency designated to administer the plan. It adopts the definition of occupational safety and health issues expressed in §1902.2(c)(1) of this chapter. The plan states that the Department of Labor has been promulgating safety and health standards. The South Carolina Commissioner of Labor is promulgating all standards and amendments

thereto which have been promulgated by the Secretary of Labor, except those found in §§1910.13; 1910.14; 1910.15; and 1910.16 of this chapter (ship repairing, shipbuilding, shipbreaking, and longshoring). The plan describes procedures for the development and promulgation of additional standards, enforcement of such standards, and the prompt restraint or elimination of imminent danger situations. The South Carolina Legislature passed enabling legislation in 1971, a copy of which was submitted with the original plan. Section 40-261 through 40-274 South Carolina Code of Laws, 1962. The amendments to the plan include proposed amendments to this legislation to more fully bring the plan into conformity with the requirements of part 1902. Under the amended legislation, the South Carolina Department of Labor will have full authority to administer and enforce all laws, rules, and orders protecting employee safety and health in all places of employment in the State.

(b) The plan includes a statement of the Governor's support for the legislative amendments and a legal opinion that the amended act will meet the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the constitution and laws of South Carolina. The plan sets out goals and provides a timetable for bringing it into full conformity with part 1902 upon enactment of the proposed legislative amendments.

#### **§ 1952.91 Developmental schedule.**

The South Carolina plan is developmental. The following is the schedule of the developmental steps provided by the plan:

(a) Introduction of the above-mentioned legislative amendments in the legislative session following approval of the plan.

(b) Public hearings and adoption of Federal standards to be completed by December 1972.

(c) A management information system to be completed by no later than June 30, 1974.

(d) A voluntary compliance program to be completed by no later than June 30, 1974.

(e) An occupational safety and health program for public employees to be completed by no later than June 30, 1974.

(f) A program for the coverage of agriculture workers to be completed no later than June 30, 1973.

(g) An approved merit system covering employees implementing the plan to be effective 90 days following approval of the plan.

(h) A revised compliance manual to be completed within 6 months following approval of the plan.

#### **§ 1952.92 Completion of developmental steps and certification.**

(a) In accordance with § 1952.91(a) legislative amendments were introduced into the 1973 South Carolina General Assembly and were enacted effective June 12, 1973. The amendments have been supplemented by State commitments to:

(1) Take action on all employee discrimination complaints within 90 days, and

(2) Limit the duration of temporary variances to a maximum of two years, inclusive of any renewals.

(b) In accordance with § 1952.91(b) the South Carolina occupational safety and health standards, identical to Federal standards (through December 3, 1974), have been promulgated and were approved by the Assistant Regional Director for Occupational Safety and Health effective April 10, 1975 (40 FR 16257).

(c) In accordance with § 1952.91(d) a voluntary compliance program, to be known as the Taxpayers' Assistant Program, has been developed.

(d) In accordance with § 1952.91(f) coverage of agricultural workers began on July 1, 1973, and was initiated directly by the South Carolina Department of Labor. (The State plan has been amended to delete the proposal to delegate such responsibility to the State Department of Agriculture.)

(e) In accordance with § 1952.91(g) the State plan has been amended to show extensions of merit system coverage to the South Carolina Department of Labor, Division of Occupational Safety and Health. Agreement with the Department of Health and Environmental